

### REMARKS

Claims 1-20 are currently pending in the subject application. By the instant amendment, claims 1, 3 and 5 are amended. Claims 1, 3, 5 and 6 are independent.

Claims 1-20 are presented to the Examiner for further prosecution on the merits.

#### A. Introduction

In the outstanding Office action, mailed February 22, 2006, the Examiner maintained the rejection of claims 1 and 2 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,486,751 to Barber et al. ("the Barber et al. reference"); allowed claims 6-20; and objected to claims 3-5 as being dependent upon a rejected base claim, while indicating that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### B. Asserted Anticipation Rejection

In the outstanding Office action, the Examiner maintained the rejection of claims 1 and 2 under 35 U.S.C. §102(b) as being anticipated by the Barber et al. reference. By the instant amendment, claim 1 is amended to more particularly recite the relationship between the piezoelectric layer, the membrane layer and the first electrode. In particular, claim 1 is amended to recite, in pertinent part, "a piezoelectric layer formed directly on the membrane layer and on an exposed portion of the first electrode." No new matter is added. Support for this amendment can be found in the application as originally filed at, e.g., FIG. 3I and paragraph [0030] of the specification.

Applicants respectfully submit that the Barber et al. reference fails to disclose, or even suggest, this aspect of claim 1, for at least the reason that the piezoelectric material of the thin film resonator described in the Barber et al. reference is formed only on the lower electrode, not

*directly* on the membrane layer. Accordingly, applicants respectfully submit that claim 1 is allowable over the cited prior art. Claim 2 depends from claim 1 and is believed to be similarly allowable. Accordingly, applicants respectfully request that this rejection be reconsidered and withdrawn.

C. Allowable Subject Matter

In the outstanding Office action, the Examiner indicated that claims 6-20 are allowable over the prior art of record, and objected to claims 3-5 as being dependent upon a rejected base claim, while indicating that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. By the instant amendment, claims 3 and 5 are rewritten in independent form, and include all the limitations of claim 1, from which they directly depended. Claim 4 continues to depend from claim 3. Applicants respectfully submit that claims 3-5 are in condition for allowance, and a notice to that effect is respectfully requested.

D. Entry of Amendment Requested

Applicants respectfully submit that the pending claims are in condition for allowance, and that the instant amendments overcome the objections and rejections set forth in the outstanding Office action. Accordingly, entry of the above amendment after final is respectfully requested.

E. Conclusion

Finally, applicants note the prior art document made of record and not relied upon, and the Examiner's comments regarding the relevance thereof. Applicants respectfully submit, however, that because the document was not relied upon to reject any pending claim, no reply is required to these comments.

If the Examiner believes that additional discussions or information might advance the prosecution of the instant application, the Examiner is invited to contact the undersigned at the telephone number listed below to expedite resolution of any outstanding issues.

In view of the foregoing amendments and remarks, reconsideration of this application is earnestly solicited, and an early and favorable further action upon all the claims is hereby requested.

Respectfully submitted,

LEE & MORSE, P.C.

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**PETITION and**  
**DEPOSIT ACCOUNT CHARGE AUTHORIZATION**

This document and any concurrently filed papers are believed to be timely. Should any extension of the term be required, applicant hereby petitions the Director for such extension and requests that any applicable petition fee be charged to Deposit Account No. 50-1645.

If fee payment is enclosed, this amount is believed to be correct. However, the Director is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-1645.

Any additional fee(s) necessary to effect the proper and timely filing of the accompanying-papers may also be charged to Deposit Account No. 50-1645.